

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

MATTHEW CATANZARO,

Plaintiff,

v.

MICHIGAN DEPARTMENT OF
CORRECTIONS, BRUCE CURTIS, J.
McHENRY, JUDY COTTON, JUDITH
DAOUST, D. SMITH, JOE KLEINHANS,
SHERRIE ROBBINS,

Defendants.

Case Number 08-11173-BC
Honorable Thomas L. Ludington
Magistrate Judge R. Steven Whalen

**ORDER ADOPTING REPORT AND RECOMMENDATION, GRANTING
DEFENDANTS CURTIS, COTTON, AND MCHENRY'S MOTION FOR SUMMARY
JUDGMENT, AND DISMISSING WITH PREJUDICE PLAINTIFF'S CLAIMS
AGAINST DEFENDANTS CURTIS, COTTON, AND MCHENRY**

This matter is before the Court on a report and recommendation [Dkt # 149] issued by Magistrate R. Steven Whalen on March 3, 2010. The report and recommendation addresses the motion for summary judgment filed on April 24, 2009, by Defendants Bruce Curtis, J. McHenry, and Judy Cotton [Dkt. # 86] as to Plaintiff Catanzaro's claims of First Amendment retaliation. The magistrate judge recommends that Defendants Curtis, McHenry, and Cotton's motion for summary judgment be granted because Plaintiff Catanzaro has not demonstrated that Plaintiff engaged in constitutionally protected conduct with respect to Defendants Curtis and Cotton, or that Defendant McHenry took an adverse action against Plaintiff.

Due to the fact that the copy of the report and recommendation initially mailed to Plaintiff Catanzaro was returned as undeliverable, the Court remailed the report and recommendation to

Plaintiff's updated address, and reset the time for objections. *See* [Dkt. # 151, 152]. As of today's date, no party has filed any objections to the magistrate judge's report and recommendation. The election to not file objections to the magistrate judge's report releases the Court from its duty to independently review the record. *Thomas v. Arn*, 474 U.S. 140, 149 (1985). Nonetheless, the Court agrees with the conclusion reached by the magistrate judge.

Accordingly, it is **ORDERED** that the magistrate judge's report and recommendation [Dkt. # 149] is **ADOPTED**.

It is further **ORDERED** that Defendants Curtis, Cotton, and McHenry's motion for summary judgment [Dkt. # 86] is **GRANTED**, and that Plaintiff Catanzaro's claims against Defendants Curtis, Cotton, and McHenry are **DISMISSED WITH PREJUDICE**.

It is further **ORDERED** that the Clerk of the Court is **DIRECTED** to update the status of Defendants Curtis, Cotton, and McHenry to "terminated" on the docket, and that this order has no effect in Michael Garrison's case [09-14560], which was severed from the instant case on November 19, 2009.

s/Thomas L. Ludington
THOMAS L. LUDINGTON
United States District Judge

Dated: April 23, 2010

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on April 23, 2010.

s/Tracy A. Jacobs
TRACY A. JACOBS